

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RUBEN LOPEZ CAZARES,

Defendant.

)
)
)
)
)
)
)
)
)
)

CASE NO. 8:05CR162

**MEMORANDUM
AND ORDER**

This matter is before the court on the Defendant's motion to extend the time for filing a motion under 28 U.S.C. § 2255 (Filing No. 350).

On April 10, 2008, the Eighth Circuit Court of Appeals affirmed this Court's judgment on direct appeal. (Filing Nos. 332, 333.) Because the Defendant did not file a petition for a writ of certiorari, his conviction became final on July 14, 2008, when his deadline to file a petition for a writ of certiorari expired. *United States v. Martin*, 408 F.3d 1089, 1090 (8th Cir. 2005) (the deadline for filing a petition for writ of certiorari is ninety days from the date of judgment). The Defendant has one year from that date, or until July 14, 2009, to file his § 2255 motion. 28 U.S.C. § 2255(f).

The Defendant requests an extension of his § 2255 deadline because he cannot meet the deadline due to "extenuating circumstances beyond his control." It appears that the Defendant mistakenly believes that his deadline is one year from the date of the Eighth Circuit's judgment. The motion is denied, and the Defendant has until July 14, 2009, to file his § 2255 motion.

IT IS ORDERED:

1. The Defendant's motion to extend the time for filing a motion under 28 U.S.C. § 2255 (Filing No. 350) is denied; and

2. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 30th day of March, 2009.

BY THE COURT:

s/ Laurie Smith Camp
United States District Judge